

Jeremy Hunt Statement

Question 1: Who you are and a brief summary of your career history.

1. I am the Secretary of State for Culture, Olympics, Media, and Sport, a position I have held since 11 May 2010. Prior to this I was the Shadow Secretary of State for Culture, Media and Sport responsible for Conservative Party policy on media issues. I have been a Member of Parliament since the 2005 General Election and before that founded and ran an educational publishing business.
2. As Secretary of State, I am the Cabinet Minister responsible for the London 2012 Olympics. Apart from this my key policy priorities have been the roll out of superfast broadband in the UK, introducing local TV, boosting philanthropy to help the arts, setting up the School Games to boost competitive sport in schools and making sure our tourism industry benefits from the London Games.

Media Ownership

Question 2: Please explain your current role as to media ownership. This should include a brief overview of the policy considerations underlying your role, the relevant legislative powers you hold, and an account of all occasions on which you have had cause to consider or exercise these powers.

3. As Secretary of State responsible for media policy my approach has been to help our media industry adapt to rapid technological change whilst preserving the essential role it has safeguarding an open and democratic society.
4. I have always believed that the best way to preserve both quality and choice is a "strong BBC but strong competition to the BBC."
5. The decisions I have taken have been consistent with this approach:
 - the new BBC licence fee settlement, securing BBC funding for 6 years;
 - legislation to support the creation of up to 60 local TV stations across the UK;
 - the introduction of superfast broadband which will reach 90% of the country by 2015;
 - helping local newspapers adapt by relaxing local cross media ownership rules; and
 - commitment to a Communications Bill in this Parliament designed to help the UK become Europe's technology hub.

6. One of my most important responsibilities is to ensure media plurality – ensuring that no one person or organisation has too much control of the channels through which we learn the news.
7. The functions which I currently have deriving from legislation are set out below.
8. Firstly, where there is a qualifying media merger (defined below), I am able to issue an intervention notice under the Enterprise Act 2002 where I believe the proposed merger could raise public interest concerns in respect of the need for:
 - accurate presentation of news; and free expression of opinion in newspapers;
 - a sufficient plurality of views in newspapers in each market for newspapers in the United Kingdom or a part of the United Kingdom is specified in this section;
 - the need, in relation to every different audience in the UK or in a particular part of the UK, for there to be a sufficient plurality of persons with control of the media enterprises serving that audience;
 - the availability throughout the UK of a wide range of broadcasting which (taken as a whole) is both of high quality and calculated to appeal to a wide variety of tastes and interests;
 - persons controlling such enterprises, to have a genuine commitment to broadcasting standards set out in section 319 of the Communications Act 2003. As explained in the relevant guidance¹, “the intention behind this consideration is to assess whether persons controlling or carrying on media enterprises post-merger are likely to comply with the spirit as well as the letter of the broadcasting standards set down in the Communications Act 2003.
9. A relevant merger situation is created where two or more enterprises cease to be distinct and where at least one of the following thresholds is met, namely:
 - the value of the turnover in the UK of the enterprise being taken over exceeds £70 million (the “turnover test”); or
 - the merger would result in the creation or enhancement of at least a 25% share of supply of goods or services of any description in the UK or in a substantial part of the UK (the “share of supply test”).
10. This is the normal jurisdictional test for mergers under the mainstream competition regime. However, media plurality public interest concerns may be raised in the case of smaller mergers, particularly where local newspapers are concerned.

¹ Enterprise Act 2002: Public Interest Intervention in Media Mergers, May 2004.

11. Although the legislation does not define “plurality”, the guidance on the operation of the public interest merger provisions issued by the Secretary of State for Business, Innovation and Skills (BIS) relating to newspapers and other media mergers sets out the factors which the Secretary of State proposed to take into account, including:

“It would be a concern for any one person to control too much of the media because of their ability to influence opinions and control the agenda. This broadcasting and cross-media public interest consideration, therefore, is intended to prevent unacceptable levels of media and cross-media dominance and ensure a minimum level of plurality.....

“First and foremost, the Secretary of State may consider the impact of the merger on the number of persons controlling media enterprises serving the relevant audiences in any given area of the UK, with the object of securing that control of media enterprises continues to be spread across a sufficient number of persons....

“However, bare numbers may not tell the whole story. It might be relevant to consider the audience shares of the media enterprises brought under common control by the merger and the audience shares of other media enterprises....

“Thus, the Secretary of State considers that sufficient plurality in this context refers to the number of persons controlling media enterprises, taking into account as appropriate relative audience shares.”²

12. I share the view implicit in the guidance that “plurality” should principally be concerned with the provision of news and current affairs as these are the main areas where owners could seek to influence opinions and control the political agenda.
13. This is also the approach adopted by Ofcom in its assessment of the News Corporation/BSkyB merger discussed further below. Ofcom explained this approach by reference to the above guidance and also statements made to Parliament by Ministers of the last administration. This seems to me to be the right approach, and following the conclusion of part 1 of this Inquiry I will consider whether we should set out a definition of plurality in the proposed Communications Bill.
14. I exercised these powers in respect of the News Corporation/BSkyB merger, which is described in more detail below.
15. Secondly, I have the power to amend by Order the current media ownership restrictions either on my own initiative or following a review of the media ownership rules by Ofcom. Ofcom’s review must take place at least once every three years. I have exercised these powers in respect of local media ownership rules, making an order (the Media Ownership (Radio and Cross Media) Order 2011) to remove the

² Ibid, section 7

rules restricting local radio and local cross-media concentrations. This deregulation now enables partnerships between local newspapers, radio and Channel 3 television stations to promote a strong and diverse local media industry.

Question 3: The Inquiry notes in particular that on 21 December 2010, you took over responsibility for News Corporation's proposed acquisition of BSkyB. The Inquiry understands that you retained responsibility for the proposed acquisition until News Corporation withdrew its bid on 11 July 2011. The Inquiry would be grateful if you could provide us with all relevant documentary material relating to the proposed acquisition. This should include minutes of relevant meetings, briefing notes, representations by News Corporation, reports or representations by other parties and any other material which would assist the Inquiry in understanding your consideration of the proposed acquisition.

16. To the best of my knowledge all relevant information in my possession is submitted with this evidence.

17. Following allegations about the role of my former special advisor during the bid process, I have additionally included all relevant correspondence between me and him on my private email account and by text. I have also included all internal advice, submissions and emails relating to this merger.

18. I have also made my mobile phone and private email account available to officials to enable them to select any other messages they think might help the Inquiry during the relevant period. Because I do not keep all my texts, some additional information may follow where we have reason to believe the exchanges may be relevant and we are able to retrieve them from third parties.

19. The assessment I have made in relation to the relevance of material is set out at Annex C of this statement.

Question 4: The Inquiry would also be grateful if you could provide a detailed chronology of your involvement in the proposed acquisition, with cross references to the relevant material provided above.

20. This has been set out in Annex A of this evidence.

Question 5: The Inquiry is also interested to know whether at any time since your appointment as party spokesman on media issues you had any other conversations or meetings, or attend any gatherings, informal or formal, with executives or lawyers from News Corporation (for example, James Murdoch, Frederic Michel, Matthew Anderson, Jeff Palker or any others) which touched on issues relevant to media ownership in relation either to the rules governing media ownership or to specific or potential transactions? Please describe the purpose of these gatherings or meetings and provide the Inquiry with any minutes which may exist in relation to any such meetings. The Inquiry would also find it useful to know whether you ever expressed a view on any of these matters whilst in opposition.

21. As opposition spokesman on media issues I had a number of meetings with a variety of media organisations. To the best of my recollection, I did not discuss the rules around media ownership or specific, potential transactions with any representatives from News Corporation at any time whilst in opposition. Nor am I aware of ever having expressed any views publicly.
22. I did discuss with local newspaper operators our plans to remove local cross media ownership rules. The only mention of media ownership in the Conservative Party Manifesto for the 2010 General Election related to this policy. The manifesto said:
- “We will sweep away the rules that stop local newspapers owning other local media platforms and create a new network of local television stations”
23. Since coming into Government the only change I have made to media ownership rules was to fulfil this promise through the Media Ownership (Radio and Cross Media) Order 2011 as mentioned above.
24. All meetings with media executives are set out in Annex B. Meetings with representatives of News International or BSkyB are included in bold.
25. The Inquiry has received and published evidence from Frédéric Michel on purported engagement he has had with me and with special advisers and officials in my Department.
26. In my statement to Parliament on 25 April 2012 I made clear that contrary to his claim of conversations with me during the bid process I do not believe that I had any conversations with him during the process beyond where he may have been present during formal meetings. As reflected in Mr Michel's statement a small number of text messages were exchanged between us, which are also disclosed.
27. I also made clear in my statement to Parliament that the contact between my former special advisor Adam Smith and Mr Michel was not a secret back channel through which News Corporation was able to influence my decisions. The contact between Mr Smith and Mr Michel was one of a number of points of contact between News Corporation and my Department of which my Permanent Secretary was aware and with whom he was content, although neither he nor I authorised the content or volume of the contact made. I did not see or hear of any of the texts, emails or conversations between my Special Advisor and Mr Michel whilst I was responsible for the merger until 24 April 2012.

Question 6: The Inquiry understands the role you played in the proposed acquisition to be a quasi-judicial role, and that the decisions taken therefore had to be taken with an open mind. Prior to the transfer of responsibility, did you hold any personal or policy view on the merits of the proposed acquisition which had to be set aside in that context?

28. I have always been open about the fact that I was broadly sympathetic to the proposed acquisition prior to taking responsibility for it.

29. I expressed those views when James Murdoch called me to tell me about the planned acquisition in June 2010.

30. When asked that month by the Financial Times what I thought about the merger, I said:

"It does seem to me that News Corp do control Sky already. So it isn't clear to me that in terms of media plurality there is a substantive change, but I don't want to second guess what regulators might decide."

31. I ensured my Permanent Secretary was aware of my public statements when the Prime Minister was deciding who should take over consideration of the bid and the Shadow Business Secretary Rt Hon John Denham MP subsequently wrote to the Cabinet Secretary, Sir Gus O'Donnell, to rule over whether this meant I would be biased. The Cabinet Secretary stated that this was not the case in his reply of on 22 December:

"I took advice from lawyers and, in providing advice that there was no such impediment [to moving ministerial responsibility to Mr Hunt] I was, of course, aware of the former statements from Mr Hunt which you cite. I am satisfied that those statements do not amount to a pre-judgement of the case in question; indeed the third quotation explicitly states that Mr Hunt would not want to "second guess what regulators might decide" [doc 007].

32. I did receive a number of documents directly from News Corporation whilst the Secretary of State for BIS was considering whether to issue an intervention notice, and after that period, but before I took over responsibility for the merger. I was, however, at this time well aware that I had no formal role in the process being undertaken by the Secretary of State for BIS, having received advice to this effect from my officials.

33. I also made clear in a private note to the Prime Minister on 19 November 2010 my concerns about the approach the government seemed to be taking.

Question 7: Whom did you consult in relation to the proposed acquisition? Please include full details of any formal and informal consultation and responses thereto, and please also detail any unsolicited representations received, including from third parties, politicians or lobbyists.

34. All details as to who I consulted formally and informally are set out in Annex B and the evidence submitted with this statement.

35. I think it would be helpful if I set out my overall approach to the consultation. The term “quasi-judicial” has been used to describe the approach required, but it is fair to say there is an element of uncertainty as to what that term actually means.
36. I interpreted it as follows: like a judge I should set aside any personal views (such as those mentioned above) and make my decision objectively and impartially on the basis of the evidence presented to me. I should not be biased or make the decision on party political grounds. It should be a case-specific decision taken with reference to the issue of plurality of media ownership and not on other policy considerations (such as the impact on jobs, for example). It was a decision I should make alone, not consulting cabinet colleagues and not bound by the conventions of collective cabinet decision-making.
37. Unlike a judge, whilst I needed to be careful, I was not incommunicado and continued to exercise my duties as Secretary of State. Those duties involved answering questions on the bid in the media and in Parliament. They involved frequent interactions with many people both supporting and opposing the bid. I did not interpret my role to mean all social relations were suspended with everyone associated with the bid; nor that it was inappropriate to make passing reference to the bid in casual conversations. What mattered was that my decision was free of bias and taken after careful consideration of objective independent advice.
38. The most important way I could demonstrate objectivity in my decision-making was to commission independent advice on the right course of action before every major decision. For that reason I deliberately gave a much greater role to Ofcom and the OFT than required by the Enterprise Act.
39. I also decided to publish the independent advice I received from Ofcom and the OFT at the same time as I announced my decisions. I believed that publishing the independent advice would provide reassurance that I would depart from that advice only if I had good reason to do so and was prepared to justify those reasons publicly. In practice I never found it necessary to depart from the independent advice I received.
40. It is true that overall I had more contact with News Corporation than with opponents of the bid during the process. This was because my first decision was to consider referring the bid to the Competition Commission following which I had an obligation to consult with an adversely affected party. Having been offered undertakings in lieu of that reference, I had a duty to consider those undertakings. I was advised the only time it was appropriate to consult opponents of the bid was following a decision that I was minded to accept the undertakings – something that in fact did not happen until 3 March 2011.
41. All the relevant documents, meetings, and so on have been identified in *italics* in the main chronology included in Annex A.

Question 8: The Inquiry is interested to understand the precise basis on which you made the key decisions relating to the proposed acquisition. In this regard, the Inquiry notes that when you formally first met with News Corporation executives and lawyers, on 6 January 2011, you indicated to them as follows:

"The OFCOM recommendation and the advice the Secretary of State said he had received from counsel meant he was minded to refer the merger to the Competition Commission".

You then went on to note as follows:

"The SoS believed that it may be the case that the merger may be contrary to the public interest in plurality. The threshold for referral was therefore very low".

In the event, however, you decided not to refer the proposed acquisition to the Competition Commission, in the light of the undertakings-in-lieu offered by News Corporation (which were subsequently withdrawn).

On 24 March 2011, you met with a number of media organisations, at which they made clear a number of concerns relating to the undertakings-in-lieu ('UILs'). As such, by that date, you were in possession of at least two distinct views on the UILs; (1) those of OFCOM dated 1 March, who considered that the UILs addressed the plurality concerns; and (2) that of the media organisations, who took the view that the UILs were inadequate, and that since they had significant concerns, the matter should be referred to the Competition Commission.

The Inquiry would be grateful to understand the basis on which the decision not to refer the matter to the Competition Commission was reached. What factors did you consider and how did you weigh them? What factors did you exclude? Please explain the decision-making process in detail.

In particular, you described the threshold for referral as a low one. There appeared to be serious objection to the UILs. It is also the case that the Competition Commission could have formally considered the adequacy of the UILs. On what basis did you take the decision that the low threshold for referral was not met?

The Inquiry would also be very grateful if you would give consideration to waiving privilege in relation to counsel's opinion on this issue. If you are willing to do so, please provide copies of all relevant opinions with the response to this letter.

42. My approach to this issue was consistent: I sought advice from regulators as appropriate, I consulted on key issues, considered all relevant representations, and I conducted the process in as transparent a manner as possible publishing much more information than I was legally required to disclose under statute, including meeting notes and other associated material. As an illustration of my *modus operandi* in the decision making process, of the issues which were at large and the attitudes and arguments of the various parties, I draw attention to the minutes of the meeting between me and my officials and News Corporation on 20th January 2011.

43. It was also important to avoid the risk of a judicial review challenge by carefully running the process in a way that was seen to be fair. Initially my biggest concern was a judicial review by News Corporation who made it clear they believed they had good cause to challenge on the basis of the way the process had been handled by the Government to date. Whilst being even-handed, I therefore wanted to take particular trouble to be open, accessible and transparent with them in my decision making.
44. Following receipt of Ofcom's report and having considered it carefully, I was at all times minded to refer the proposed merger to the Competition Commission. In other words I did believe the low threshold for a referral had been met. But before doing so, I had an obligation to consider the undertakings in lieu proposed by News Corporation which I believed might have had the capacity to address concerns over the potential effect of the merger on media plurality. I was advised that, because I had the power to accept undertakings in lieu of a reference to the Competition Commission, this carried with it an obligation to consider undertakings if they were offered to me. Further, I was advised that to decline to consider undertakings in lieu would itself have been an unfair manner in which to conduct the process, and would expose the decision to the possibility of a successful judicial review claim.
45. I am happy to waive privilege in relation to Counsel's advice and have supplied all legal advice I received on this issue. I should make clear that the majority of legal advice was received directly in meetings with my legal advisers, including Counsel. I instructed Counsel early in the process as I was keen to understand fully the legal parameters within which my powers were exercised. Because I generally preferred to discuss matters in meetings with Counsel and my legal advisers, I did not consider I needed to obtain formal written advice covering the same points. However, to assist the Inquiry, I am disclosing correspondence received by officials, which was reflected in discussions I had with them, as well as in formal submissions made to me.
46. In reaching my decisions on the merger, I sought and at all times considered carefully the advice of the independent regulators, Ofcom and the OFT. I also carefully considered all relevant representations made by opponents of the merger but in my mind it was quite reasonable and proper to place greater weight on the views of independent regulators than on representations from parties some of whom had a commercial interest in the deal not going ahead.
47. It is also worth noting that many representations made to me related to competition issues even though the European Commission had already cleared the merger on competition grounds. For example, concerns were raised about the ability of News Corporation to offer cross promotion, cross subsidy, advertising sales packages that reach across print, online and TV, and to bundle newspaper subscriptions with BSkyB TV/broadband subscriptions. I was advised that none of these factors were directly relevant to the issues of media plurality which I was considering as a result of this merger.

48. The threshold for referral is indeed low but it is important to recognise that the initial recommendation by Ofcom for referral pre-dated the offer of undertakings in lieu. Once the undertakings had been offered, it was incumbent upon me to carefully consider them to determine whether those undertakings would resolve the issues raised by Ofcom in its report, or whether the merger still raised significant concerns over media plurality and should therefore be referred to the Competition Commission.
49. Following the meeting with various representatives of the media on 24 March (see Annex A for details), I considered all the relevant information I had at that time which included reports from OFT and Ofcom, as well as the representations made by the main opponents to the proposed merger. As can be seen from the timeline submitted at Annex A, in answer to question 4, my decision to consult on revised undertakings, rather than refer the matter to the Competition Commission at that stage, was also informed by the further advice from OFT and Ofcom which I received on 22 June. These reports supported the view that the undertakings would meet the plurality concerns which had originally been identified by Ofcom and would be workable in practice.
50. My sole focus was, quite properly, on the effect of the merger on plurality and the extent to which the undertakings could effectively address those concerns. In my view, the central proposal contained in the undertakings – that Sky News be “spun-off” as an independent and properly funded news organisation – directly addressed the plurality concerns which the merger had raised and I chose to place considerable weight on the view of the independent regulator Ofcom that the new undertakings “would address the plurality concerns identified in [their] report of 31 December 2010.”
51. The views of the opponents to the merger were not ignored. On the contrary, following consultation on the undertakings in lieu, I proposed a number of changes to strengthen the undertakings which were in direct response to points raised by opponents of the merger. Details of these changes are set out in my Parliamentary statement of 30 June 2011, which is attached to this evidence. Moreover, as internal Departmental notes reveal I was keen to understand from the OFT and Ofcom whether there was any potential for the spirit of the undertakings to be subverted at a later stage by News Corporation. I therefore sought reassurance from the independent regulators that this risk was not a significant one.
52. In the end the objectivity of the entire decision making process is best demonstrated by looking at the actual decisions I made. Of the decisions I made, five could be said to be *against* the corporate interests of News Corp:

My first decision on 25th January 2011 was to say I was minded to refer the bid to the Competition Commission – instead of rejecting the Ofcom report and waiving the deal through as I believe News Corporation would have wished.

The second decision was not to accept undertakings in lieu of a reference to the Competition Commission until I had considered written advice from Ofcom and the OFT as to whether they addressed plurality concerns and were workable in practice. James Murdoch made it clear to me in the meeting on 20 January that he did not agree with this course of action.

The third decision was to reconsult on the undertakings to deal with issues raised by objectors to the deal, again insisting on Ofcom and OFT advice before making a decision.

The fourth decision was – a matter of days before the consultation closed – to ask Ofcom whether the Milly Dowler revelations would or should impact on any intention to accept the undertakings on the basis of corporate governance failures.

The fifth decision was to refer the proposed merger to the Competition Commission following the withdrawal of News Corporation's offer of undertakings.

Question 9: On 11 July 2011, when the events at News of the World had begun to emerge more clearly, and after the Prime Minister had announced two judicial inquiries, and News Corporation had withdrawn the undertakings-in-lieu, but before the bid was withdrawn, you made a statement in Parliament to the effect that the proposed acquisition would now be referred to the Competition Commission. Again, the Inquiry would like to understand the basis on which this decision was taken. What factors did you take into account and how did you weigh them? What factors did you exclude? On what basis was it considered that referral on plurality grounds was now appropriate, when it had not previously been considered to be appropriate?

53. I was consistently advised that I could only make the decision on plurality grounds, as this was the basis on which the public interest notice was issued. Initially therefore I did not believe the phone hacking allegations were relevant to that consideration. However when the Milly Dowler revelations broke I began to consider whether there was an issue about corporate governance failure at News Corporation that could affect the advisability of accepting undertakings on any matter at all from them. I therefore wrote to Ofcom and the OFT on 11 July 2011 to seek their advice on the matter. Following this announcement News Corporation withdrew their undertakings.

54. I had announced on 25 January that I intended to refer the merger to the Competition Commission. Once the undertakings were withdrawn, the original decision stood and therefore I referred the merger.

Question 10: The Inquiry notes that you took over consideration of the proposed acquisition, and did not deal with it from the outset. To what extent at that point did you undertake a review of the previous handling of the matter? Accepting that this is a hypothetical question, the Inquiry would be interested in your views as to how you would have dealt with the proposed acquisition if you had dealt with it from the outset. Please explain any possible difference of approach. Would the matter have been referred to Ofcom for their views?

55. I did not review the previous handling of the matter. I took over the matter on 22 December, and reports were due from both Ofcom and the OFT on 31 December. I took the view that it would not serve any obvious purpose to review the previous handling at that stage, given that the regulators were already tasked with reporting to me, and their reports were due relatively soon after that period and probably relatively far advanced. I took the view that once the reports were received in any event, I would be in a better position to review the situation as it was, free from the accusations of bias which had been levelled at the Secretary of State for BIS. Moreover, I was given advice that once an intervention notice had been made, it is not possible to issue another notice or to amend it substantially. So for example, it would not have been possible to have also included one of the other grounds on which such mergers could be considered such as "genuine commitment to broadcast standards".

56. I was not privy to all the factors that the Secretary of State for BIS took into account when issuing the public intervention notice and therefore cannot comment on whether I would have acted differently. I can say that I would have carefully considered all the evidence available to me at that time in order to reach a decision.

Question 11: What lessons did you learn from the experience of dealing with this proposed acquisition? Did you identify any problems with your role, or limitations of your power? With the benefit of hindsight, would you make the same decisions in relation to the proposed acquisition now?

57. I believe that at all times I made every effort to act in a quasi-judicial manner, informing my decisions with advice from the independent regulators at every stage. I understood this role to mean that I should consider the issue fairly and transparently, free of any political considerations or previous views which I had held. However, given the political sensitivities of this particular merger it was impossible to avoid accusations of political influence in the decision-making process. This was despite my both seeking, and after consideration, following independent advice from regulators. I was also criticised despite the fact that I had indicated early in the process that I was minded to refer the proposed transaction to the Competition Commission. Indeed, throughout the process I received criticism from both proponents and opponents of the merger.

58. The public rightly demand that such decisions are taken fairly and are arrived at following an impartial weighing of the evidence, and are not pre-judged or informed by irrelevant considerations. I firmly believe that this was the case in respect of this decision, but it may have been more clearly perceived to be so had the decisions not been taken by a politician but by an independent regulator or some other independent body or individual.

59. I accept, however, that there is an argument that plurality is by its very nature a more subjective area than a competition test which is economically based. There are

therefore strong arguments why decisions around what is in the public interest are best taken by elected Ministers accountable to Parliament. I have subsequently suggested that we should explore the possibility that media mergers are no longer handled by politicians

60.

61. With respect to the problems or limitations of my role, please see my answer to question 12.

62. I believe that revelations about phone hacking and a potential failure of corporate governance in News Corporation would have affected my willingness to enter into discussions about undertakings in lieu had I known about them at the time that they were originally offered. With the benefit of hindsight I do not think we would have got so far down the track with the merger given what we now know about corporate malpractice at News International. I knew that in law I could only take the decision on plurality grounds – but it would have been reasonable to ask whether it was appropriate to accept undertakings from a company whose corporate governance processes were so woefully lacking.

63. Until the Milly Dowler revelation broke I still believed that wrongdoing at News International was limited to a small number of journalists. However, I began to question that view when the Milly Dowler revelation broke, and within a week wrote to Ofcom to ask for their advice.

Question 12: Do you have any recommendations as to whether, and if so how, such a process can and should work differently in future? In your view, is the role currently allocated to the Secretary of State within this process the best way of dealing with these issues?

64. It is possible to argue that decisions about media ownership should be treated differently to ensure proper distance between the Press and the Government. As I suggest in my answer to question 11, I believe the role of the Secretary of State in such matters should be looked at – both the merits and the risks – to strengthen the public's view that such decisions are taken impartially. We also need to consider who would be the most appropriate person or body to take such a decision on public interest if this is not the Secretary of State. For example, there may be merit in setting up a panel of independent experts for such a purpose.

65. At all times I made every effort to act without bias and believe both the decisions I took and the decision-making process I adopted prove this to have been the case. But there are important differences to the way a judge acts and the way any politician is able to act.

66. A judge has to act impartially. But unlike a judge, a politician has pre-existing relationships that need to be put on hold when taking a quasi-judicial decision like this. He knows that he must ignore any consequences for existing relationships as a

result of decisions taken. He also knows that in the case of media mergers some sections of the public will never really believe a decision was taken for objective as opposed to party-political reasons.

67. There is an argument that politicians should make decisions on media plurality because any such decision is, by its nature, more subjective than an economically-based competition test. There is also a view that because of the importance of media plurality decisions should only be taken by elected politicians. I do not share this view. This is not because I believe it is impossible for politicians to act in an impartial manner – I believe I did. But even when they do it is almost impossible to persuade elements of the public that justice is being done and being seen to be done.

68. I note that decisions on competition issues where there are no public interest considerations are now no longer taken by the politicians but by independent regulators, presumably to address the same issue. I believe serious consideration should be given to adopting the same approach with respect to decisions on media plurality.

69. I will inform my final views on this with any recommendations in this area made by the Inquiry. The government will publish its formal policy response in the Communications White Paper due to be published in 2013.

Question 13: Do you consider that the present competition arrangements applicable to media ownership are sufficient? If not, what improvements do you consider should be implemented or explored?

70. At present decisions on competition issues raised by media mergers are matters for the relevant competition authorities. As explained above, under the Enterprise Act I am able to intervene in cases which, in my view, could raise media plurality public interest concerns. I believe that this power to intervene works well but you will see in my answers to questions 11, 12 and 14 that there are aspects of this regime which I want to review as part of the Communications Review. I will also be very interested in the Inquiry's views on these issues and will take them into account before reaching any final decisions.

Question 14: Ofcom has argued that the current provisions for its involvement in issues of media plurality are inadequate, in that they bite on dominant positions that may arise from mergers and takeovers but not with dominant positions that arise from organic growth. What is your perspective on this issue?

71. I think there is merit in looking at Ofcom's suggestion. I have already publicly said that I want to consider as part of the Communications Review whether there is a gap in the current media plurality regime and that the provisions for protecting sufficient media plurality should allow independent regulators to start investigations into

concentrations of media ownership and propose remedies to protect plurality even in the absence of a merger. However, it is important that any approach does not stifle innovation or growth in the sector.

72. One approach might be to prescribe specific limits for media and cross-media ownership. Quantifying cross media ownership, in particular, and setting appropriate limits is difficult as there is no consistent measurement system in place and the media market evolves very quickly. There is also an arguable need to develop a weighting system to reflect the relative importance or reach and impact of different media on the public's consumption of news and information. However it is not always the case that dominant market positions are against the public interest and so a regulator should have some flexibility in how to interpret guidelines, particularly in the rapidly evolving technology sector. It is also important to create a system that gives sufficient certainty to business in order to encourage investment.

73. I have asked Ofcom to specifically look at the options for measuring media plurality and they are due to report to me in June 2012.

74. All these issues will be addressed by the Government's Communications White Paper which will be informed by any view the Inquiry may come to.

Question 15: How would you describe the nature of the public interest in media ownership policy? How in your view is that public interest best safeguarded for the future? Do you consider that the influence of the media on politicians is such that different, or special, provision is desirable to safeguard the public interest in relation to that influence, particularly on the question of the plurality of media ownership?

75. Plurality of media ownership is one of the essential foundations of freedom of expression in an open and democratic society. Being able to reach an informed opinion about the issues of the day by being able to consider news mediated by different platforms and via different content providers is an intrinsic component of a free society.

76. As indicated in earlier answers, through the Communications Review I intend to look closely at the existing arrangements for preserving plurality to ensure that they strike the right balance between plurality and the need for an open and innovative media market able to respond to changes in technology.

Wider Media Policy

Question 16: The Inquiry would be grateful for an understanding of how your wider media policy (including, but not limited to, regulatory policy) responsibilities work in practice. In particular, we would like the clearest possible picture of how you manage press relationships in relation to the formulation and execution of media policy, including in relation to public service broadcasting.

How are the views of the press received, and then tested? How, if at all, does that differ from the way that the views of other parts of the media industry are handled? How far is that process transparent or otherwise placed into the public domain? To what extent do you consult within and beyond media interests, how and with whom? What forms of unsolicited representation are accepted? Do you schedule meetings or briefings with relevant parties, and if so with whom? Do any groups or proprietors have particular access to you at these times? The Inquiry would be grateful if you could provide some specific, current or recent, examples.

77. As Secretary of State for Culture, Olympics, Media, and Sport I have overall responsibility for media policy. I consequently meet many media organisations, including the press. Details of all meetings are published on a quarterly basis on the website <http://www.transparency.culture.gov.uk> and, since I have been Secretary of State, I have seen the media organisations identified in Annex B.
78. Where significant new policy is proposed then this is consulted upon, for instance in the run up to any proposed legislative change. Government undertakes a period of consultation (usually 12 weeks) during which any member of the public or organisation can respond. Media organisations (including newspapers) can therefore respond in this way, and will do so where they have a policy interest. In any consultation my officials will carefully consider all relevant information received from all sources before offering me advice. The views of media organisations are not given any special weighting when compared with views of others.
79. When formulating media policy I listen to and meet with those within the sector. For instance I have devoted a lot of time to the creation of a new local television sector. As part of this work I have met all of the UK's major broadcasters (BBC, ITV, Channel 4, Five, Virgin and BskyB). I have also met prospective bidders for local TV through meetings and visits round the country. This has included local newspaper groups, educational institutions, local media entrepreneurs and former broadcasters. Similarly, I met with Newspaper editors on 24 March 2011 to explain my decision in relation the proposed merger between News Corporation and BskyB.
80. In addition, I regularly meet and discuss relevant policy developments with Ofcom and consult other interested parties such as the devolved governments, and trade bodies and consumer groups who have an interest in media policy. Similarly, when developing plans to create a tourism legacy from the London 2012 Games I met with tourism trade bodies like the BHA, hotel groups like IHG and tourism agencies like VisitBritain.
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and consult other interested parties such as the devolved governments, and trade bodies and consumer groups who have an interest in media policy. In comparison, when developing plans to create a tourism legacy from the London 2012 Games I met with tourism trade bodies like the BHA, hotel groups like IHG and tourism agencies like VisitBritain.

82. Dealings with the media and press in relation to media policy are therefore treated no differently to dealings with other organisations in other policy areas. This is exactly the same for all of the areas of policy for which I am responsible.

83. No groups or proprietors have any special or particular access to me. I met people and organisations as and when I think I need to or am advised to do so by my officials.

84.

Question 17: Ofcom is required to be satisfied that a broadcast licensee is "fit and proper" to hold a licence. Under section 3(3) of each of the 1990 Act and the 1996 Act, Ofcom:

- a. shall not grant a licence to any person unless satisfied that the person is "a fit and proper person to hold it"; and*
- b. "shall do all that they can to secure that, if they cease to be so satisfied in the case of any person holding a licence, that person does not remain the holder of the licence".*

Do you consider that this requirement is sufficient? In your opinion has it operated satisfactorily to date?

85. The requirement that a company holding a broadcast licence holder must be a "fit and proper person" has been in place since the Broadcasting Act 1990. It provides a useful safeguard to prevent broadcasting licences falling into the hands of unsuitable persons. I understand that it has not been invoked by Ofcom on a regular basis, and that there has only been one case of revocation of a licence on these grounds since Ofcom has been in existence. This concerned Bang Media (London) Ltd and Bang Channels Ltd where Ofcom determined in November 2010 that they were not fit and proper persons to hold a licence because of serious and repeated breaches of their licences, "which demonstrated a disregard for their licence obligations and for the regulatory regime as a whole".

86. Establishing that someone is not a fit and proper person to hold a licence is, quite properly, a high test to meet. It is a significant penalty to deprive someone of their licence to broadcast, and any action taken must be compatible with the European Convention on Human Rights. The Communications Review process provides an opportunity to debate whether this is the right approach, and whether the levels are set appropriately, and I will consider carefully representations made as part of this process. However, I think it is important and right that independent regulators make these decisions not politicians.

Question 18: As the prospective sponsor of any measure introduced into parliament to give effect to government policy on press regulation, what, in your opinion, is the risk that that would in itself provide an unwarranted opportunity to parliamentarians to restrict the freedom of the press, contrary to the public interest? What measures would you expect to take to manage any such risk?

87. I would not introduce any measures into Parliament that would restrict the freedom of the press and do not believe that there is a majority in either House of Parliament that would pass such measures or indeed support amendment legislation to that effect. The Prime Minister, Deputy Prime Minister and indeed the Leader of the Opposition have all said that press freedom is a fundamental part of our society.

General Questions

At the opening of the Inquiry, in November 2011, Lord Justice Leveson said:

"The press provides an essential check on all aspects of public life. That is why any failure within the media affects all of us. At the heart of this Inquiry, therefore, may be one simple question: who guards the guardians?"

In answering the questions below, please give your reasons and, where appropriate, examples.

Question 19: In your view, what are the specific benefits to the public of a relationship between politicians and the media? What are the risks to the public inherent in such a relationship? In your view, how is the former maximised, and the latter minimised and managed?

88. The media provides a means through which the public can judge politicians independently and in a democracy that is absolutely vital. It is a curiously symbiotic relationship – we depend on them to get our message across and they depend on us to provide them with information.

89. I do not think we should, in a free country, seek to regulate such contact. But it is important to have a plurality of media and a plurality of political parties to ensure that diverse voices are heard and power is not over-concentrated in a few hands. One editor or journalist may have sympathies for one party, or one wing of a party which may inevitably influence or inform the reporting. But, provided other editors and other journalists have different sympathies, balance and diversity are preserved.

90. Where that system breaks down is if one individual or organisation has too much control of the media: power then becomes concentrated and unaccountable, which is as dangerous to democracy as a one-party state.

Question 20: What lessons do you think can be learned from the recent history of relations between the politicians and the media, from the perspective of the public interest? What changes, voluntary or otherwise, would you suggest for the future, in relation to the conduct and governance of relationships between politicians and the media, in order that the public interest should be best served?

91. Politicians will always develop close relationships with journalists and it is unrealistic to expect otherwise. But it is clear that there needs to be greater transparency in the relations between politicians, including party leaders, those responsible for media policy, and media proprietors and editors. That is why publishing details of meetings between the media and politicians is so important. I do not believe it is realistic or indeed healthy to try to restrict such meetings taking place – so transparency is the best way to preserve the public interest.

Question 21: Are there any differences between the media generally and the press in this regard?

92. One important distinction between the media generally and the press is that obligations are placed on broadcasters in relation to news provision on television and radio. Impartiality requirements contained in the current legislation are intended to give citizens the confidence that the information broadcasters are presenting has a level of objective authority and can therefore be trusted. High quality and impartial broadcast news provision is a cornerstone of our democracy.

93. The press is not subject to this impartiality requirement. Therefore there is always greater scrutiny over the relationships between newspapers and politicians. However, I do not think that this means that there should be impartiality requirements in newspaper reporting as to do so would undermine the important principle of freedom of expression and plurality – and I do not believe that anyone would argue for this.

94. We also need to find a way to continue to preserve a free and vibrant press as the industry continues to diversify across a range of media platforms.

I believe that the facts stated in this statement are true.



Jeremy Hunt
Secretary of State for Culture, Olympics, Media and Sport

